

Appl. No. 09/836,894
Response dated December 8, 2004
Reply to Office Action of October 18, 2004

REMARKS

Reconsideration of the above-indicated patent application is respectfully requested. The present request for reconsideration is responsive to the Final Office Action mailed October 18, 2004.

THE REJECTIONS UNDER 35 U.S.C § 102

Claims 6-59 had been rejected under Section 102(e) as being anticipated by Vasic et al. (U.S. Publication No. 2003/0021417). Applicant acknowledges, with thanks, the receipt of the Madoukh publication (U.S. Publication No. 2001/0019614), the parent application of the Vasic reference. Applicant has carefully reviewed the disclosures of both the Madoukh publication and the Vasic publication and respectfully disagrees with the Examiner's contentions that the Madoukh publication includes sufficient disclosure to maintain the rejections of the instant claims based upon the added disclosure of the child application, Vasic. Therefore, Applicant respectfully traverses this rejection.

Applicant maintains the arguments set forth in the response to the office action received in April 2004. Vasic, a continuation-in-part of the Madoukh application, is not available as a prior art reference as the filing date of the instant application of April 17, 2001 predates the Vasic application filing date of May 15, 2002 by over a year. The Applicant's review of the Madoukh application indicates that Madoukh is directed to storing data and the encryption and decryption of data already stored in a database, *i.e.*, data at rest. The subject

812823_1.doc

Appl. No. 09/836,894
Response dated December 8, 2004
Reply to Office Action of October 18, 2004

matter of the present invention is directed to the encryption and decryption of data in motion, e.g., data being transmitted from one computer to another as is the new matter added in Vasic.

In addition to the distinctions between the instant application and the Madoukh application, the Applicant argues that the disclosure found in Vasic does not have adequate support in the Madoukh application. Furthermore, Vasic adds a substantial amount of new matter to the Madoukh application. For example, the Vasic child application contains 27 figures and 184 paragraphs, while Madoukh contains only 14 figures and 112 paragraphs. By its very nature, a continuation-in-part application adds new matter to an existing application and in the present circumstances; the new matter is included as the basis of the rejections advanced by the Examiner.

Applicant respectfully submits that the lack of adequate support in the parent application may be best distinguished by comparing the figures of the parent application Madoukh with the figures of the child application Vasic. Figures 1-14 of Madoukh correspond to figures 1-14, matching exactly. However, figures 1-14 do not show the invention as set forth in the instant application. Figure 15 in Vasic, which is not contained within Madoukh, depicts a block diagram illustrating a system in which database protection is provided. Figure 16, added to Vasic and lacking in Madoukh, depicts a block diagram of a system illustrating remote computing systems accessing a key repository over a network. Figure 17, included in the continuation-in-part application of Vasic, illustrates a block diagram of a server, a repository

812823_1.doc

Appl. No. 09/836,894

Response dated December 8, 2004

Reply to Office Action of October 18, 2004

server, and remote computer systems, which figure is not found in the disclosure of the Madoukh application.

Furthermore, figures 18A-E, shown in Vasic and not included with the parent application of Madoukh, add, among other items, mobile data communication to the continuation-in-part application, showing mobile computing devices, firewalls, the Internet and servers. Figure 19 illustrates tables corresponding to key, access control and user databases. Figure 19 was not filed with Madoukh, but rather was added when the continuation-in-part was filed. Figure 20 depicts an encryption process that includes sending a session key to a user, which was not included in the parent application. Figure 21 shows a method for maintaining an access control list, noticeably absent from the parent application. Figure 22, present in Vasic, but absent from Madoukh, illustrates a process of accessing an encrypted file through the exchange of session keys. Figure 23 and figure 24, included in the continuation-in-part, cannot be found in the Madoukh parent application. Figure 25, which mentions a registration card, cannot be supported by the disclosure of Madoukh. Figure 26 of the Vasic application includes a cryptography server, something not mentioned in the parent application. Additionally, Figure 27 includes references to the runtime authentication of components, a process noticeably lacking from the disclosure of the parent application.

The Examiner based his rejections on paragraphs 0029-0033 and 0079 of Vasic. Of these paragraphs recited by the Examiner, only the subject matter of paragraphs 0031 and 0079 appear in Madoukh. With respect to the Examiner's claim rejections based upon the

812823_1.doc

Appl. No. 09/836,894

Response dated December 8, 2004

Reply to Office Action of October 18, 2004

disclosure of paragraphs 0029, 0030, and 0033, of Vasic, it is respectfully submitted that the matter contained in these paragraphs fails to find support in the original disclosure of the Madoukh application. For example, Applicant has reviewed the parent application of Madoukh extensively, even searching the document online for the word "remote", which Applicant determined, is not used, even a single time, within the Madoukh parent application. Other content contained in the cited paragraphs of the Vasic reference is also lacking from the disclosure of the Madoukh application. For example, as stated in Paragraph 0029, Vasic includes a "cryptographic engine" and a "key exchange module", neither of which are present in the parent application. As previously stated, "remote" is not used in Madoukh, however paragraph 0030 of Vasic indicates the presence of a "remote data entity". Paragraph 0033 of Vasic includes a "key exchange module", "key request", an "exchange public key", and other components which are not found in the parent application. Thus, applicant hereby reiterates that a portion of the subject matter of Vasic used to reject Applicant's claims 6-59, specifically the subject matter of paragraphs 0029, 0030, and 0033, is not found within the Madoukh parent application and rather, constitutes the new matter in the continuation in part application.

It is respectfully noted that the Vasic et al. reference has a filing date of May 12, 2002, whereas the present application has a filing date of April 17, 2001. Therefore, it should be plain that Vasic et al. is not 102 prior art as applied to the present claims. It is further noted that Vasic et al. is a continuation-in-part of Madoukh filed October 20, 2000. It should be appreciated that the Vasic reference, as set forth in detail above, includes only a portion of

812823_1.doc

Appl. No. 09/836,894

Response dated December 8, 2004

Reply to Office Action of October 18, 2004

disclosure that can draw from this earlier date. It is now clear from the Examiner's remarks and a careful review and analysis of the Madoukh and Vasic applications that a portion of the matter forming the outstanding rejection is based on portions of the Vasic reference having a later filing date than the present application. Thus, Applicant respectfully submits that it has not been established that this reference and the cited portions relied upon do in fact anticipate the present claims. It is therefore respectfully submitted that the burden of proof has not been met in this outstanding rejection. Since an earlier date cannot be established on the outstanding rejection, it is respectfully submitted that the claims distinguish over the Madoukh. reference. Withdrawal of this rejection and an indication of allowability is therefore respectfully requested.

In view of the foregoing it is respectfully submitted that the present claims distinguish over the prior art. A notice to that effect is earnestly solicited. If the Examiner believes there are any further matters, which need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

Respectfully submitted,
TUCKER ELLIS & WEST LLP



Larry B. Donovan
(Registration No. 47,230)
1150 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1475
Customer No. 23380
216-696-3864 (phone)
216-592-5009 (fax)

812823_1.doc

-32-